

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1367 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

JAMNASHANKAR BHAVARLAL NAGDA

Versus

ASSISTANT REGIONAL TRANSPORT OFFICER

Appearance:

MR JV JAPEE for Petitioner

MR AJ DESAI, ld.AGP for Respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 07/04/2000

ORAL JUDGEMENT

The case of the petitioner is that, petitioner's Trailer No.HR-51-GA-0991 is detained at Shamlaji Check Post because the machinery which was being carried in this Trailer was of over dimension and in contravention of Rule 93(8) of the Central Motor Vehicles Rules, 1989.

The attention of this Court has been invited by both the sides to Rule 2 of Over Dimensions of Motor Vehicles (Prescription of Conditions for Exemption) Rules, 1991 and subject to the conditions mentioned in this Rule 2, the exemption may be granted.

2. Mr. Japee has filed an undertaking of the petitioner J.B. Nagda that he would comply with the safety precautions and that he will ply the vehicle during the day time only and that all possible care to ensure that the vehicle, enroute, does not cause any obstruction or disturbance to the traffic and it does not cause any damage to the public or private property. It has also been stated in the said undertaking that the petitioner will be responsible for damage to any such property.

3. Having heard both the sides, in the facts and circumstances of this case, it is ordered that apart from the undertaking as has been given by the petitioner, the petitioner shall follow the conditions as mentioned in Rule 2 (1) (f), (g), and (h) of the aforesaid Rules which are as under:

"2. Conditions for the grant of exemption from Rule 93.-- The State Government may exempt any motor vehicle or any class or description of motor vehicles from the provisions of Rule 93 of the Central Motor Vehicles Rules, 1989, subject to the fulfilment of any or all of the conditions specified in these rules which that Government may deem fit to impose, namely:--

(1) Such motor vehicle or class or description of motor vehicles shall--

....

....

....

(f) equip with necessary warning signals such as red flags in the day time, red light and reflectors in the night so as to indicate the extreme positions of the vehicle clearly;

(g) move without any hindrance to the normal flow of traffic;

(h) not exceed the speed limit of 16 kms. per hour."

In case any damage is caused to the roads or road

structures directly or indirectly due to the movement of the petitioner's vehicle, the petitioner shall be liable to pay such amount to the State Government as may be assessed by the authority in this behalf as is contemplated by Rule 2(2) of the aforesaid Rules. The petitioner's Trailer numbered as above may be released and allowed to its destination subject to the aforesaid conditions and on the further condition that the petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) with the office of the Inspector of Motor Vehicles, R.T.O. Check Post, Shamlaji, District Sabarkantha. This amount of Rs.5,000/- is not final and will be subject to the determination of the fine or any other amount which may be found to be recoverable from the petitioner as legal dues.

3. With the directions as aforesaid, this Special Civil Application is allowed subject to the conditions as above and the Rule is made absolute. No order as to costs. Direct service is permitted.

(M.R. Calla, J.)

Sreeram.